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**REPORT**  
**of the**  
**ADVISORY COUNCIL**  
**MARYLAND EMPLOYMENT SECURITY BOARD**  
**to the**  
**LEGISLATIVE COUNCIL OF MARYLAND**  
**in accordance with**  
**H. J. R. 11**  
**1956 Session**  
**Maryland General Assembly**

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MARYLAND EMPLOYMENT SECURITY BOARD  
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IN ACCORDANCE WITH  
H. J. R. 11  
1956 SESSION  
MARYLAND GENERAL ASSEMBLY

ADVISORY COUNCIL  
TO THE  
MARYLAND EMPLOYMENT SECURITY BOARD

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LETTER OF TRANSMITTAL

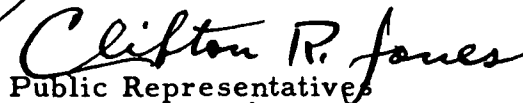
October 1, 1956

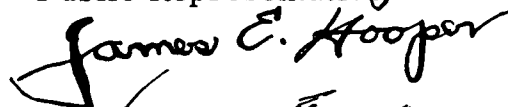
To the Members of the Legislative Council:

House Joint Resolution 11 adopted March 26, 1956, requested the Advisory Council to the Employment Security Board to study the Unemployment Insurance Law, particularly as it relates to prevailing wage rates and unemployment benefits for workers.

In compliance with this request, the Advisory Council herewith submits its report.

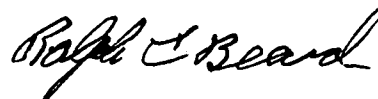
  
Chairman

  
Public Representative





Employer Representatives



  
Employee Representatives

## FOREWORD

House Joint Resolution 11 states that the present unemployment insurance laws in some respects may no longer be in accord with economic trends and industrial conditions and, therefore, the Advisory Council to the Employment Security Board is requested to make a study of the Maryland Unemployment Insurance Law, and to submit a report of its findings to the Legislative Council by October 1, 1956.

The Resolution places particular emphasis on the need for review of the benefit provisions of the Law in relation to current wage rates and living costs, but does not preclude a study of other provisions closely allied to the major objective of the Law; that is, to provide adequate benefits for unemployed persons meeting specific requirements as set forth in the Law.

The Council agreed that the first step in undertaking this study was to obtain from various organizations and individuals representing labor, industry, and the general public any suggestions pertaining to changes in the Maryland Law which they wished to submit. To this end, a list of interested organizations and individuals was obtained of those attending a joint meeting of the Employment Security Board and the Advisory Council held in the fall of 1955 to discuss the administrative surveys prepared by the Federal Bureau of Employment Security and the Honorable Joseph Sherbow, and these persons were invited to send in any suggestions for revision of the Maryland Law.

The recommendations presented by those responding to the Council's appeal covered sections of the Law relating to the benefit formula; disqualification from receipt of benefits; and taxing provisions. Suggestions pertaining to the administrative organization of the Department of Employment Security and other subjects, such as temporary disability insurance, which the Council deemed to be beyond the scope of the study, were also received.

As discussions of the Council progressed, the suggestions appropriate to the study were considered; and while not specifically referred to in the body of the report, the Council found the views expressed by the various groups to be of considerable value in formulating its conclusions.

The Council, in order to submit its report and recommendations to the Legislative Council by October 1, 1956, held weekly day-long

meetings. In the early days of the study, the Employment Security Board sat with the Council and made available to the Council throughout its deliberations the personnel, services and facilities of the Department without which the study could not have been made. Representatives of the Federal Bureau of Employment Security also met with the Council to aid in the formulation of study plans and to offer technical assistance. The Bureau later supplied an analysis of the Maryland Unemployment Insurance Law together with recommendations for specific changes which it considered desirable and practical.

A wealth of information concerning unemployment insurance laws of other states and the development of the program in Maryland was assembled by the Research and Analysis Division of the Department of Employment Security for the use of the Council. Statistical data on all phases of operation, together with an analysis of the effect of each proposed change on the claimant and the benefit fund made available by this Division, were carefully studied.

All recommendations contained in the report were by unanimous agreement of the Members of the Council, with the single exception of the proposed revision in the maximum weekly benefit amount. While the majority of Members was in agreement that the maximum limit for the weekly benefit amount should be \$33, the Employee Representative's vote was recorded in favor of a \$35 maximum weekly benefit amount.

The Council's report containing the recommendations for the revision of certain sections of the Maryland Unemployment Insurance Law and the reasons for the conclusions reached is presented in the following pages. The Council believes that these recommendations are sound, practical and reasonable. It is the sincere hope of its Members that the Legislative Council will give earnest consideration to these proposals and will present with its approval the recommended revisions to the 1957 Session of the General Assembly of Maryland.

The Council recommends April 1, 1957 as the effective date of any amendments approved by the General Assembly.

## House Joint Resolution 11

Joint Resolution requesting the State Advisory Council of the Employment Security Board to study the present unemployment compensation laws of Maryland in relation to current economic trends and prevailing wage rates.

WHEREAS, The present unemployment compensation laws have been in existence for nearly twenty years and perhaps, in some respects, may no longer be in accord with economic trends and industrial conditions; and

WHEREAS, One item which frequently has been mentioned as requiring study in the light of present-day conditions is that of prevailing wage rates and their relationship to the current level of unemployment compensation benefits; and

WHEREAS, In the judgment of the General Assembly of Maryland, this subject should be studied in order to ascertain possible improvements and changes which might be made in the employment security laws; now, therefore, be it

*Resolved by the General Assembly of Maryland,* That the State Advisory Council of the Employment Security Board be requested to study the Unemployment Compensation Law in relation to current economic trends, with particular attention being given to the relationship between prevailing wage rates and unemployment compensation benefits; and be it further

*Resolved,* That the Advisory Council be requested to submit its report, together with any recommendations it may wish to make, to the Legislative Council not later than October 1, 1956.

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SUMMARY OF RECOMMENDED CHANGES  
IN THE MARYLAND UNEMPLOYMENT INSURANCE LAW

The Advisory Council to the Maryland Employment Security Board, in accordance with House Joint Resolution 11, makes the following recommendations for changes in the Maryland Unemployment Insurance Law:

1. Amend Sections 19(a) and 19(q) to establish an individual benefit year beginning with the first day a valid claim is filed and extending for 364 days thereafter; and to define the base period as the first four of the last five completed quarters preceding the benefit year.
2. Amend Section 3(b)(1) changing the formula for determining the weekly benefit amount to  $1/24$  of high-quarter wages; the minimum weekly benefit amount to \$10 and the maximum to \$33; and the base-period-qualifying wages, Sections 4(e)(1) and 4(e)(2), to  $1\frac{1}{2}$  times the upper limit of the high-quarter earnings schedule, the amount to be earned in not less than two quarters.
3. The adoption of a uniform duration of benefits of twenty-six weeks, Section 3(d), and adjustment of dependents' allowances at lower weekly benefit levels, Section 3(c).
4. Amend Section 3(b)(2) to provide for a deduction from earnings of \$7 in the determination of the weekly benefit amount to be paid for partial unemployment.
5. Consideration by the General Assembly of the extension of coverage to State employees.
6. Repeal of Criminal Act Section of the Law - Section 5(a).
7. Amend Section 5(b) to provide for a penalty of not less than one nor more than nine weeks immediately following the week of separation; also to renumber this Section to 5(a).
8. Revise the language used in Section 5(b) to eliminate the phrase "deliberate and wilful misconduct" and substitute "gross misconduct."
9. Repeal the "not sought work" Section 5(ca) and include the requirement of actively seeking work in the eligibility requirement,

Section 4(c); and transfer the provision relating to vacation and other plant shutdowns from Section 5(ca) to Section 4(c).

10. Amend Section 5(d) relating to refusal to accept suitable work by providing a penalty of from one to nine weeks following such refusal.

REPORT OF THE FINDINGS OF THE ADVISORY COUNCIL  
TO THE MARYLAND EMPLOYMENT SECURITY BOARD  
IN ACCORDANCE WITH HOUSE JOINT RESOLUTION 11

A review of the proposals for changes in the benefit provisions of the Unemployment Insurance Law advanced by various organizations and individuals indicated that the foremost interest revolved around the amount of weekly benefits, including the limitations placed on the minimum and maximum amounts, and the duration of benefits. Of major importance were the recommendations made by the Federal Bureau of Employment Security which, in addition to proposing more liberal benefit provisions, included suggestions for revisions of certain sections of the Law pertaining to disqualifications.

During the early meetings of the Council, discussions ranged over a wide field of subjects relating to the Law, and it was concluded that the Council should study the laws of other states as a basis of comparison with the Maryland statute. It was also decided that the increase in the cost of living and average weekly wages as related to the current benefit scale should be a prime consideration in any recommendation for changes in the Law which the Council would ultimately adopt.

In any benefit formula proposed, there are two major factors to be considered. The amount of benefits is based on wages, and benefits, of necessity, must be related to the level of earnings. A family, whether the wage earner is employed or unemployed, must be provided with funds to meet certain basic needs and the cost of living is an important consideration.

A means of measuring these factors is provided in the calculation of the average weekly wage earned by workers employed in industries covered by the Unemployment Insurance Law and in the Consumer's Price Index prepared by the U. S. Bureau of Labor Statistics (Table I).

As Table I indicates, since the first benefits were paid under the Maryland Unemployment Insurance Law in 1938, the average weekly wage has increased over 211.0 percent. All segments of industry share, although somewhat unequally, in this general advance in earnings, but nevertheless the increased pay rolls of all employers, in spite of deductions for taxes, have been responsible for a higher standard of living for almost all families.

The unemployment insurance program, adopted by nearly all states in the late 1930's has taken a permanent place in the nation's economy and has proved its value not only to the individual worker, but also to the community by maintaining purchasing power.

In Maryland, as in all other states, the program has changed to move with the times, and as wages have advanced the maximum limit of benefits has also moved upward, although at a somewhat slower pace. At the present time the maximum weekly benefit amount of \$30 is double that written into the original law.

In 1938, when the average weekly wage in covered employment was less than \$23, the maximum benefits represented 67 percent of the average weekly wage. As the uptrend of wages continued, revisions in the Law provided additional benefits at the maximum level, but percentagewise the proportion of the average wage compensated for by unemployment benefits showed a gradual decline after each amendment to the Law until currently the maximum weekly benefit amount stands at 43.0 percent of the average weekly wage. Some recognition must be given, however, to the difference between gross wages and "take-home" pay which varies with the individual claimant's circumstances, and to the provision for dependents' allowances, which adds from \$2 to \$8 to the weekly benefits of the claimant who qualifies.

In relation to the rise in the Consumer's Price Index, the advance in the maximum weekly benefit amount over the years is in closer balance. The Index for Baltimore is the only one available for Maryland, but since generally speaking around 65 percent of the claimants file for benefits in the Baltimore area offices, this Index offers an acceptable guide for living costs in the State.

The Consumer's Price Index consists of the consolidated costs, not only of the so-called necessary items in a family budget but also many of the additional expenditures for which a normal family budget provides. Thus, it is not expected that benefits will replace a worker's total income, but will provide for those non-deferrable items such as rent, food, public utilities, insurance and perhaps some other minor costs. In many families there is more than one wage earner but, in general, the Council believes that the present scale of benefit payments falls somewhat short of meeting even the basic needs of the average family.

Since the inception of the Unemployment Insurance Law, every few years Maryland has increased the maximum benefits payable and also

the duration of benefits. The current maximum weekly benefit amount, established in 1953, is \$30 and the maximum duration in effect since 1945 is twenty-six weeks.

Originally the determination of the weekly benefit amount was based on the principle that it should be approximately 50 percent of the weekly wage for full-time employment. Subsequently, however, a formula was written into the Law which, in effect, increased the proportion of benefits payable, but in 1947 the Law reverted to the original concept of 50 percent, expressed, however, in terms of one twenty-sixth of high-quarter earnings, the formula which is in current use.

As experience was gained in the operation of the program, other amendments to the Law closely related to benefit payments were passed by the Legislature. For example, in 1945 coverage was extended to employers of one or more workers; the waiting period was abolished; and benefits were permitted to individuals in claim status during periods of sickness under specified conditions. In 1949 dependents' allowances were added and benefits for partial unemployment were increased.

Maryland has not been alone in its constant study and revision of the Unemployment Insurance Law. In practically all states there has been an effort to amend the benefit provisions and to make other improvements in order to keep abreast of changing economic conditions. During 1955, legislatures in thirty-seven states liberalized benefit provisions, and in 1956 four additional states provided for an increase in benefit payments.

Unemployment insurance laws vary widely from state to state, and the Council in its recommendations has endeavored to place the Maryland Law among the more liberal states, but at the same time in consideration of the industrial composition and wage levels prevailing in this State, has not deemed it essential to assume the leadership in the provision for higher benefit payments. Moreover, cost has been an important factor and in its recommendations, the Council has attempted to grant to the majority of claimants the maximum advantages possible, but at the same time, without placing an additional tax burden upon the employer, to maintain an adequate reserve in the benefit fund.

To accomplish this objective, the Council recommends the following revisions in the Maryland Unemployment Insurance Law (Article 95A of the Annotated Code of Maryland):

I. Benefit Year and Base Period - Sections 19(a) and 19(q)

The current Law provides for a fixed benefit year for all claimants beginning April 1 of each year and ending March 31. The base period is the calendar year immediately preceding the benefit year.

The Council recommends that the Law be amended to provide for an individual benefit year.

The Council recommends that the definition of a benefit year, Section 19(q), be changed to the period beginning with the day the claimant files his first valid claim and continuing for 364 days thereafter; and that the definition of the base period, Section 19(a), be revised to the first four of the last five completed calendar quarters preceding the beginning of the benefit year.

The trend in all states is toward the use of the individual benefit year. In 1949 there were thirteen state laws providing for a fixed benefit year. There are now only six states including Maryland.

The advantage to claimants under an individual benefit year would be the shortening of the time lapse between the time when base-period wages were earned and the beginning of the benefit year. The effect of this change on benefits paid to the majority of claimants would be:

- A. Benefits would be based on more recent earnings and would be more closely related to current wages. As the wage rates during the past several years have constantly increased most claimants would be eligible for higher benefits.
- B. New entrants into the covered labor force would have a better chance of becoming eligible for benefits at the time the money is most needed.
- C. All claimants would have an equal opportunity, if necessary, to obtain their total benefits during the benefit year.

Administratively, it is anticipated that in an increased number of cases benefits would be charged to the account of the most recent employer.

Besides being a more equitable arrangement, the volume of contested charges would probably be reduced.

Offsetting factors to the possible increased cost of benefits would be:

- A. That for a relatively small number of claimants now eligible for twenty-six weeks of benefits in two successive years, the possibility of drawing for fifty-two consecutive weeks would be eliminated.
- B. Claimants without employment in the interim between exhaustion of benefits for the first year and the filing of a new claim in the second year would be ineligible for the "second round" of benefits.

It is the opinion of the Council that it was not the intent of the Law to permit claimants to qualify for a "second round" of benefits under these circumstances, but because of the manner in which the Law was framed, claimants in this category in increasing numbers have been drawing benefits.

## II. Weekly Benefit Amount - Section 3(b)(1)

### A. High-Quarter Fraction

It is recommended that the fraction of high-quarter wages used to determine the weekly benefit amount be changed from  $1/26$  to  $1/24$ .

At the present time, the laws of only eight other states provide for a  $1/26$  fraction at all benefit levels; other states using a similar benefit formula provide for fractions ranging from  $1/25$  to  $1/20$ .

The change in the high-quarter fraction to  $1/24$  will result in additional weekly benefits of \$1 to \$3 for all claimants entitled to less than the maximum. However, the vast majority of claimants would fall into the groups receiving \$1 or \$2. While it has long been a generally accepted principle that the weekly benefit amount below the maximum level should equal not less than one half of a worker's regular weekly earnings, it is also recognized that an assumption of full employment during the high quarter is not realistic. Therefore, by using the fraction of  $1/24$  instead of  $1/26$  this condition is offset to some extent.

### B. Maximum Weekly Benefit Amount

The Council recommends that the maximum weekly benefit amount be raised to \$33. The addition of dependents' allowances

will add from \$2 to \$8 to this amount, depending upon the number of dependents.

Currently four states are paying a maximum weekly benefit amount of \$33, only one of which adds dependents' allowances. Of the ten states paying in excess of \$33, two make provision for dependents' allowances. However, in nine of these states the average weekly wage in covered employment is higher than in Maryland.

In the past, as the average weekly wage in covered employment increased, the maximum weekly benefit amount was raised, although since 1948 the maximum rate without dependents' allowances has failed to reach 50 percent of the average weekly wage (Table I). Including the top allowance for dependents, the percent of the average weekly wage compensated for by unemployment benefits at the maximum level has ranged from 64.9 percent in 1949 to 54.5 percent in 1955. However, it is estimated that about only 3.0 percent of claimants eligible for maximum benefits received the full additional payment of \$8 for dependents' allowances.

Based on the average weekly wage of \$69.72 for the year 1955, maximum benefits of \$33 would provide a weekly benefit amount of 47.3 percent of the average weekly wage in covered employment and, with additional allowances for from one to four dependents, from 50.2 percent to 58.8 percent.

#### C. Minimum Weekly Benefit Amount

The Council recommends raising the minimum weekly benefit amount to \$10.

Only eight states provide for a minimum of less than \$6 and some of these are in the South where wages tend to be low. In twenty states the minimum is \$10 and in three states it is more than \$10.

The current minimum weekly benefit amount is \$6 (Table II). In order to qualify for this amount, a claimant must earn an average of approximately \$12 a week for fifteen weeks. When the Law was first enacted, the minimum required earnings of \$10 per week were around 44.7 percent of the average weekly



wage; whereas under present-day wage rates, the minimum qualifying earnings are only 17.2 percent of the average weekly wage. Moreover, in the original benefit scale the minimum weekly benefit amount was one third of the maximum benefits; now it is one fifth. In other words, both wages and the maximum weekly benefit amount have advanced to keep pace with the changing economic conditions, but the minimum requirements have remained almost static. At current wage rates, for the most part, workers qualifying for benefits of less than \$10 are part-time, casual or seasonal workers with no firm attachment to the labor force. In the opinion of the Council, it is not the province of the Unemployment Insurance Law to provide benefits for this class of worker. By raising the minimum weekly benefit amount to \$10 (which requires minimum earnings of approximately \$15 per week to qualify) the scale of benefit payments will be more realistic in view of current conditions.

#### D. Minimum Qualifying Base-Period Earnings

The current Law requires minimum base-period earnings of thirty times the weekly benefit amount (Table II). Besides the change in the scale of high-quarter earnings upon which the weekly benefit amount is based (Table III, Col. 1), the Council recommends that the formula used to determine the amount of base-period earnings required to qualify be changed to 1 1/2 times the upper limit of the high-quarter earnings (Table III, Col. 2), and that the claimant must also have earnings in at least two quarters of the base year.

By applying the 1 1/2 times the high-quarter-earnings formula, the minimum base-period earnings required to qualify for the minimum weekly benefit amount will be \$360. At the maximum of \$33, the requirement will be \$1,188. The Council believes that this scale of qualifying earnings in the base period will bring the Law more in conformity with current wage levels. While some claimants now eligible will fail to meet the revised requirements, many of these will be claimants with short-term employment whose attachment to the labor force is questionable at best.

Methods used by other states to determine the qualifying base-period earnings vary considerably. However, the minimum requirement for eligibility in twelve states is in excess of \$360; in fact, it is over \$500 in five of these states. Considering the general level of wages in Maryland compared to these states, it is the opinion of the Council that the eligibility requirement of \$360 earnings in a twelve-month period is reasonable.

#### E. Step-down Clause

The Council recommends a step-down clause which would be new to the Maryland Law. It is designed to soften the effect of the base-period-qualifying requirement for claimants with sufficient high-quarter earnings but with insufficient earnings in the base period to qualify. In such instances, the claimants are permitted to drop down to the next lower bracket and thereby qualify for benefits if their base-period earnings meet the minimum requirement in this next lower step in the scale. However, this provision is recommended only if minimum qualifying base-period earnings of  $1\frac{1}{2}$  times the high-quarter earnings is adopted.

#### III. Duration of Benefits - Section 3(d)

The current Law provides for a variable period of duration of benefits depending upon the claimant's earnings during his base period. Under this provision a claimant may be eligible for benefits from seven and one half to twenty-six weeks, the maximum specified in the Law.

The Council recommends the elimination of the variable system of determining duration of benefits and that all claimants qualifying on the basis of high-quarter and base-period earnings be eligible for benefits for a uniform duration of twenty-six weeks.

There are fourteen states which provide uniform duration of benefits for all claimants, but the number of weeks varies. One state has a duration of thirty weeks and five states extend duration to twenty-six weeks for all claimants.

Actually, there is no relationship between the length of time an individual works and the subsequent period he is unemployed. The Council agrees that, except possibly in periods of unusually high unemployment, twenty-six weeks is a reasonable period for a claimant to obtain new employment. While such a provision would be somewhat more costly than the present system, the increase under normal economic conditions probably would not be as great as it might appear. As a matter of fact, only those claimants who under the current Law exhaust benefits at less than the maximum of twenty-six weeks would gain any advantage from such an extension of duration, although potentially all claimants would be eligible for twenty-six weeks.

#### IV. Dependents' Allowances - Section 3(c)

Contingent upon the acceptance of the provision for uniform duration of twenty-six weeks, the Council recommends that the amount of dependents' allowances at the lower benefit levels be limited as shown in Table III in order to prevent the total annual augmented benefit amount from exceeding the minimum qualifying wages.

The Council also considered raising the age limit of dependents to 18, but there seemed to be no justification for this change in the opinion of its members.

#### V. Weekly Benefits for Partial Unemployment - Section 3(b)(2)

Under the current Law claimants having less than full-time employment and earning less than the weekly benefit amount are entitled to benefits after a deduction of \$5 is made from such earnings and weekly benefits are reduced by the remaining amount. The purpose of this provision is to encourage claimants to accept whatever type of work might be available, even though it may be of short duration.

The Council recommends that the deduction from the claimant's earnings be increased from \$5 to \$7, thus giving him the advantage of \$2 additional benefits.

#### VI. Recommended Changes in the Benefit Formula

The recommended benefit formula shown in Table III combines all the component parts described separately in the foregoing paragraphs. The various steps are interrelated and the Council believes that this formula is a sound, equitable and workable basis for the payment of unemployment benefits.

With certain revisions, it is the formula suggested by the Bureau of Employment Security. Each section has been carefully analyzed from the viewpoint of the effect upon the claimant and the maintenance of adequate reserves in the benefit fund.

It is the considered judgment of the Council that this formula should be adopted and the necessary revisions made in the Maryland Unemployment Insurance Law to bring it in conformity with their recommendations.

## VII. Seasonal Workers

Among the items submitted to the Council for consideration was a proposal to provide under certain conditions for the disqualification from benefits of individuals normally employed in seasonal industries. After considerable study of administrative problems involved and the effect of such a provision on claimants and industry, the Council decided not to recommend the adoption of this proposal.

## VIII. Deduction of Pensions from Benefits

A proposal providing for the deduction from claimants' benefits of retirement payments received from employers' pension plans was considered, but the Council agreed that no provision to this effect should be placed in the Law.

## IX. Extension of Coverage to State Employees

The Council recommends that the General Assembly give consideration to providing unemployment benefits for State employees. Although the present Law permits State and local political subdivisions to elect coverage on a voluntary basis, this provision requires the payment of a payroll tax in the same manner as private employers.

The Council recognizes that it would not be practical for the State to elect coverage under this section of the Law, but as a substitute the Council recommends that the State consider legislation establishing a program somewhat similar to the one currently in operation for coverage of Federal employees. Under the Unemployment Compensation for Federal Employees program no payroll tax is required. The State Department of Employment Security administers the program and the Federal Government is responsible only for the actual amount of benefits paid to former employees who qualify. Under such a program, State employees could be covered at a minimum of cost.

## X. Effect of the Recommended Changes on the Benefit Fund

The Council has carefully analyzed the recommended changes in the Law as related to the cost. Certain elements in the recommended revisions--an increase in the scale of weekly benefit amounts and the uniform duration of benefits--will add to benefit expenditures. However, there are also partially offsetting factors--the higher minimum weekly benefit amount and the qualifying base-period earnings.

Moreover, in the opinion of the Bureau, the individual benefit year is a less costly system than the present operation under the fixed benefit year.

There is little question that the recommended benefit formula, taking into account all the plus and minus factors, will increase benefit payments to some degree. However, under the experience-rating system now in effect, the Council believes that any change in the taxable wage base or experience rate schedules to meet these higher benefit expenditures is unnecessary at the present time.

As of August 30, 1956, the balance in the benefit fund was \$115,570,540. This is a gain of more than \$5,000,000 in reserves since the end of December 1955. As of January 1, 1955, the experience rates of all employers were raised in accordance with Section 7(c)(4)(iii)(2). This is the so-called "escalator clause" adopted in 1953, whereby all rates except the maximum are raised one step in the experience rating scale when the ratio of the balance in the fund to taxable wages for the preceding year drops below 7.5 percent. The reserve ratio at the end of the March 1956 quarter was 6.2 percent. It should be pointed out that for the two years previous to this increase in rates, the average experience rate had dropped to the lowest point in the history of the Law; that is, 0.87 percent and 0.63 percent respectively. For the rate year ending June 30, 1956, it is anticipated that the average rate will be around 0.93 percent and for the current year it will probably run slightly higher. Moreover, taxable wages are on the increase and unless a period of high unemployment occurs within the next two or three years, as in 1950 and 1954, there should be no immediate drain on the reserves in the Fund.

There are three sources of income to the Fund. The major source is employer contributions which for fiscal year ending June 30, 1956 amounted to somewhat more than \$16,000,000. Interest on the balance of the Fund from the U. S. Treasury amounts to about \$2,500,000 each year. Beginning as of fiscal 1956, the excess of the Federal 0.3 tax on employers over administrative expenses was pro-rated to the states. The amount received by Maryland was \$555,000. Since a part of the excess was needed to bring the balance in the Federal Loan Fund up to the required \$200 million, not all of this excess was distributed to the states. From now on it is anticipated that Maryland's share of these monies will be over \$750,000 a year.

Therefore, in the judgment of the Council there is no need to add to the tax burden of the employer in order to meet the anticipated cost of the recommended changes in benefit payments.

Should the level of unemployment rise to such a degree that more funds are required for benefit payments, the section of the Law relating to experience rate adjustments would again automatically become effective and the rates of all employers would move up a second step in the experience rate schedule.

## XI. Disqualifications and Penalties

Although House Joint Resolution 11 specifically directed attention to the benefit structure of the Unemployment Insurance Law, considerable time and study was devoted to the disqualification and penalty provisions of the Law on which suggestions for changes were received from several sources, as well as from the Bureau of Employment Security.

Since the Law's inception twenty years ago changes in provisions relating to disqualifications of individuals from benefits have been made from time to time. The principle of paying benefits only to persons who become unemployed through no fault of their own is a basic concept written into the Law. Revisions for the most part have been concerned with the language implementing this principle or with the penalties provided when claimants have contributed to or have been directly responsible for their unemployment.

### A. Criminal Act - Section 5(a)

Section 5(a) of the Law pertains to the commission of a criminal or dishonest act materially affecting the individual's work or to a wilful act endangering the safety of others. There is no requirement in this provision for an admission of guilt or of a conviction in a court of law in order to bar the claimant from benefits. It is extremely difficult to apply and, in effect, requires administrative decisions on issues which, in the opinion of the Council, should be reserved for the courts.

For this reason, the Council recommends the repeal of Section 5(a) of the Law.

### B. Voluntary Quit - Section 5(b)

Section 5(b) of the Law is two-fold and relates (1) to individuals who leave work voluntarily without good cause and (2) to individuals who, because of threatened, deliberate and wilful misconduct connected with their work, cause their dismissal.

The Council recommends that these provisions of the Law be separated and the voluntary quit provision be designated as Section 5(a). The "deliberate and wilful" misconduct provision would then be retained as Section 5(b).

#### 1. Voluntary Quit

All state laws make some provision for the penalizing of an individual for voluntarily leaving work without good cause; however, the penalties imposed vary considerably. The majority of states impose a penalty of either a specified number of weeks or a variable number. Currently, the Maryland Law disqualifies the claimant for the duration of his unemployment and also requires him to become reemployed and earn at least ten times his weekly benefit amount before he may reestablish eligibility for benefits.

The Council believes that the penalty for a voluntary quit should be flexible enough to permit the exercise of judgment in applying a penalty consistent with the claimant's reasons for quitting. Therefore, the Council recommends that the penalty for voluntary quitting be for not less than one nor more than nine weeks immediately following the week of separation.

#### 2. Deliberate and Wilful Misconduct

The disqualification from benefits of a claimant who has been discharged for deliberate and wilful misconduct connected with his work is intended to apply to the more serious forms of misconduct. The present term "deliberate and wilful" is confusing and difficult to apply. The Council recommends that the present language be changed; that the act of misconduct now defined as "deliberate and wilful" be redefined as "gross misconduct" and that the present disqualification be retained in Section 5(b).

#### C. Misconduct - Section 5(c)

No change in the substance of Section 5(c) of the Law is recommended. The intention here is to provide in the less serious forms of misconduct a flexible form of penalty of from one to nine weeks following the week of separation.

#### D. Not Sought Work - Section 5(ca)

A requirement that claimants must actively seek work was written into the eligibility requirements, Section 4(c) of the Law, in

1947, but in 1949 the Law was amended to provide for a specific disqualification from benefits of claimants who do not actively seek work while claiming benefits, and a penalty ranging from one to ten weeks was imposed.

In practically all state unemployment insurance laws, the requirement to seek work actively, by its very nature, is a part of the question of eligibility for benefits rather than a basis for disqualification. The Council agrees with this viewpoint and recommends that Section 5(ca) of the Law be repealed and that the words "actively seeking work" be inserted in the eligibility requirements of the present Section 4(c). This will not eliminate a penalty for failure to actively seek work but will permit the suspension of benefits until such time as evidence is submitted that there is compliance with this requirement.

It is further recommended that if this change is made, the special provision pertaining to vacation and other plant shutdowns, as presently set forth in Section 5(ca) in the amendment passed by the General Assembly in 1956, be added to the present Section 4(c).

E. Refused to Accept Suitable Work - Section 5(d)

Section 5(d) of the Law sets up a penalty for refusal, without good cause, to apply for or to accept available, suitable work when offered.

A review of state laws discloses that only fifteen states, of which Maryland is one, disqualify claimants for their full period of unemployment following such refusal.

The Council believes that the penalty under this provision should be flexible enough to permit the exercise of judgment in applying a penalty consistent with the claimant's reason for refusing work. In this Section, the "good cause" proviso and the conditions under which work may be deemed suitable implies that there may be extenuating circumstances involved which might limit the claimant's responsibility for failure to comply with this provision. Therefore, the Council recommends that the penalty under Section 5(d) be for the week in which the refusal occurred and for not less than the one nor more than the nine weeks immediately following such week.



- F. Labor Dispute - Section 5(d); Pregnancy - Section 5(f); and Seeking Other Benefits - Section 5(g)

No change in the substance of these sections of the Law is recommended. The Council believes they are fair and adequate as now written.

- G. Overpayment and Fraud - Sections 16(d) and 16(e)

The Council considered these sections of the Law and is of the opinion that considerable misunderstanding is possible in their construction and that unequal treatment of claimants could well result at the administrative level from the application of complex statutory language to specific facts.

At the present time, there is a case pending before the Court of Appeals of Maryland which involves the proper interpretation of Section 16(d), and the Council believes that before it could make a firm recommendation for amending these sections of the Law, the Court's decision interpreting the Law should be available to them.

TABLE I

INCREASES IN AVERAGE WEEKLY WAGE IN COVERED INDUSTRY, COST OF LIVING AND  
UNEMPLOYMENT INSURANCE MAXIMUM WEEKLY BENEFIT AMOUNT

1938 - 1955

## A. AVERAGE WEEKLY WAGE IN COVERED INDUSTRY

	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
% Increase since 1938	22.39	23.78	24.68	28.60	35.46	42.05	43.83	43.06	42.61	46.62	49.84	50.81	53.73	57.95	61.18	65.11	65.32	69.72
		6.2	10.2	27.7	58.4	87.8	95.8	92.3	90.3	108.2	122.6	126.9	140.0	158.8	173.2	190.8	191.7	211.4

## B. CONSUMERS PRICE INDEX FOR BALTIMORE, MARYLAND

	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
1947-1949 Average=100	58.3	57.9	58.1	61.8	68.9	73.3	74.4	76.8	82.7	95.4	102.4	102.2	102.9	110.4	113.5	114.7	115.1	115.2

C. MAXIMUM WEEKLY BENEFIT AMOUNT WITH PERCENTAGE INCREASE SINCE 1938  
AND PERCENT OF AVERAGE WEEKLY WAGE

	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Max. W.B.A.	15.00	15.00	15.00	17.00	17.00	20.00	20.00	20.00	20.00	25.00	25.00	25.00	25.00	25.00	25.00	30.00	30.00	30.00
% Increase over 1938	-	-	-	13.3	13.3	33.3	33.3	33.3	33.3	66.7	66.7	66.7	66.7	66.7	66.7	100.0	100.0	100.0
% of Average Weekly Wage	67.0	63.1	60.8	59.4	47.9	47.6	45.6	46.4	46.9	53.6	50.2	49.2	46.5	43.1	40.9	46.1	45.2	43.0

TABLE II

## CURRENT UNEMPLOYMENT INSURANCE DIVISION SCALE

EFFECTIVE JUNE 1, 1953

Wages Paid in Highest Quarter of Base Year (1)	Weekly Benefit Amount 1/26 High-Quarter Wages (2)	Thirty Times Weekly Benefit Amount (3)	Twenty-six Times WBA (4)
\$ 156.00 to \$168.00	\$ 6.00	\$ 180.00	\$ 156.00
169.00 to 194.99	7.00	210.00	182.00
195.00 to 220.99	8.00	240.00	208.00
221.00 to 246.99	9.00	270.00	234.00
247.00 to 272.99	10.00	300.00	260.00
273.00 to 298.99	11.00	330.00	286.00
299.00 to 324.99	12.00	360.00	312.00
325.00 to 350.99	13.00	390.00	338.00
351.00 to 376.99	14.00	420.00	364.00
377.00 to 402.99	15.00	450.00	390.00
403.00 to 428.99	16.00	480.00	416.00
429.00 to 454.99	17.00	510.00	442.00
455.00 to 480.99	18.00	540.00	468.00
481.00 to 506.99	19.00	570.00	494.00
507.00 to 532.99	20.00	600.00	520.00
533.00 to 558.99	21.00	630.00	546.00
559.00 to 584.99	22.00	660.00	572.00
585.00 to 610.99	23.00	690.00	598.00
611.00 to 636.99	24.00	720.00	624.00
637.00 to 662.99	25.00	750.00	650.00
663.00 to 688.99	26.00	780.00	676.00
689.00 to 714.99	27.00	810.00	702.00
715.00 to 740.99	28.00	840.00	728.00
741.00 to 766.99	29.00	870.00	754.00
767.00 and over	30.00	900.00	780.00

TABLE III

Proposed benefit formula: Basic weekly benefit amount figured as one twenty-fourth 1/ of high-quarter wages with schedule of augmented benefits for claimant with one or more dependents, and qualifying wages computed as one and one-half times high-quarter wages 2/

High-quarter wages (1)	Minimum wages (2)	Basic weekly benefit amount (3)	Augmented Weekly Benefit Amount 3/ With one depend. With 2 depend. With 3 depend. With 4 depend.				Total Annual Benefits Uniform Duration of 26 Weeks	
			(4)	(5)	(6)	(7)	Basic	Maximum
			(4)	(5)	(6)	(7)	(8)	(9)
192.01	240.00	360	4/	13 (3)	13 (3)	13 (3)	260	338
240.01	264.00	396	13 (2)	14 (3)	14 (3)	15 (4)	286	390
264.01	288.00	432	14 (2)	15 (3)	15 (3)	16 (4)	312	416
288.01	312.00	468	15 (2)	16 (3)	16 (3)	17 (4)	338	442
312.01	336.00	504	16 (2)	17 (3)	18 (4)	19 (5)	364	494
336.01	360.00	540	17 (2)	18 (3)	19 (4)	20 (5)	390	520
360.01	384.00	576	18 (2)	19 (3)	20 (4)	21 (5)	416	546
384.01	408.00	612	19 (2)	21 (4)	22 (5)	23 (6)	442	598
408.01	432.00	648	20 (2)	22 (4)	23 (5)	24 (6)	468	624
432.01	456.00	684	21 (2)	23 (4)	25 (6)	26 (7)	494	676
456.01	480.00	720	22 (2)	24 (4)	26 (6)	27 (7)	520	702
480.01	504.00	756	23 (2)	25 (4)	27 (6)	29 (8)	546	754
504.01	528.00	792	24	26	28	30	572	780
528.01	552.00	828	25	27	29	31	598	806
552.01	576.00	864	26	28	30	32	624	832
576.01	600.00	900	27	29	31	33	650	858
600.01	624.00	936	28	30	32	34	676	884
624.01	648.00	972	29	31	33	35	702	910
648.01	672.00	1,008	30	32	34	36	728	936
672.01	696.00	1,044	31	33	35	37	754	962
696.01	720.00	1,080	32	34	36	38	780	988
720.01	744.00	1,116	33	35	37	39	806	1,014
744.01	768.00	1,152	34	36	38	40	832	1,040
768.01	792.00	1,188	35	37	39	41	858	1,066
816.01 or more	1,260	5/ 35	37	39	41	43	910	1,118

1/ Rounded to next higher dollar.

2/ One and one-half times upper limit of high-quarter wage bracket. To soften the effect of the base period qualifying requirement for individuals with high-quarter earnings at or near the lower limit of the high-quarter bracket, a one-step step-down provision is included.

3/ Basic weekly benefit amount increased by \$2. for first dependent at all benefit levels; increases at lower benefit levels additional dependents are in smaller amounts in order to prevent total augmented benefit amount from exceeding minimum qualifying wages.

4/ Amounts in parenthesis show increases in basic weekly benefit amount until the level is reached at which \$2. increase for each dependent becomes uniform.

5/ Maximum w.b.a. proposed by minority.

